

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11-cv-173

JOHN J. PONAK,)
)
Plaintiff,)
)
vs.)
)
FREMONT P, LLC,)
)
Defendant.)
_____)

ORDER

THIS MATTER is before the Court *sua sponte* to ascertain subject matter jurisdiction. The defendant Fremont P, LLC has been named as a defendant in the Amended Complaint (#11) filed in this matter on August 26, 2011. In the Amended Complaint Fremont P, LLC is described as an organization organized and existing under the laws of the state of California.

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4th Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997), *certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C. §1447(c)("If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded."). A limited liability

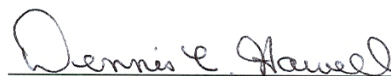
company is a citizen of all states in which its constituent members are citizens.

Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157

(1990). It has not been disclosed whether the defendant has constituent members or partners and where their citizenship is located and therefore it will be required to do so.

IT IS, THEREFORE, ORDERED that on or before December 2, 2011, the defendant Fremond P., LLC shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of the above referenced LLC, and, for any such constituent member or partner that is a limited liability company or partnership. Defendant is ordered to identify the citizenship of the respective constituent members or partners until all such constituents are fully identified.

Signed: November 22, 2011



Dennis L. Howell
United States Magistrate Judge

